

1. Applicant Identification

Broome County Industrial Development Agency (BCIDA)
Five South College Drive
Binghamton, NY 13905

2. Funding Requested

- a. Assessment Grant Type: Community-wide
- b. Federal Funds Requested: \$300,000
- c. Contamination: Hazardous Substances

3. Location

- a. Town of Union, Village of Johnson City, Village of Endicott, Town of Maine
- b. Broome County
- c. New York

4. Property Information for Site-Specific Proposals

N/A: This is not a Site-Specific Proposal

5. Contacts

a. *Project Director*

Mr. Brendan O'Bryan
Community Development Specialist
Broome County IDA
Five South College Drive
Binghamton, NY 13905
607.584.9000
bjo@theagency-ny.com

b. *Chief Executive*

Ms. Stacey Duncan
Executive Director
Broome County IDA
Five South College Drive
Binghamton, NY 13905
607.584.9000
smd@theagency-ny.com

6. Population (2018 U.S. Census Bureau PEP Estimates)

Broome County: 191,659
Town of Union: 53,251
Town of Maine: 5,120
Village of Johnson City: 14,299
Village of Endicott: 12,645

THE AGENCY

BROOME COUNTY IDA / LDC

7. Other Factors Checklist

Community population is 10,000 or less.	NO
The applicant is, or will assist, a federally recognized Indian tribe or United States territory.	NO
The priority brownfield site(s) is impacted by mine-scarred land.	NO
The priority site(s) is adjacent to a body of water (i.e., the border of the priority site(s) is contiguous or partially contiguous to the body of water, or would be contiguous or partially contiguous with a body of water but for a street, road, or other public thoroughfare separating them).	YES 3 OF 7
The priority site(s) is in a federally designated flood plain.	YES 3 OF 7
The redevelopment of the priority site(s) will facilitate renewable energy from wind, solar, or geothermal energy; or any energy efficiency improvement projects.	UNK.
30% or more of the overall project budget will be spent on eligible reuse planning activities for priority brownfield site(s) within the target area.	NO

8. Letter from the State or Tribal Environmental Authority

An acknowledgement letter from the New York State Department of Environmental Conservation, dated November 22, 2019 is attached.

ATTACHMENT
New York State Department of Environmental Conservation
Acknowledgement Letter

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Bureau of Program Management
625 Broadway, 12th Floor, Albany, NY 12233-7012
P: (518) 402-9764 | F: (518) 402-9722
www.dec.ny.gov

November 22, 2019

Ms. Stacey Duncan
Executive Director
Broome County Industrial Development Agency
Five South College Drive
Binghamton, NY 13905

Dear Ms. Duncan:

This is to acknowledge that the New York State Department of Environmental Conservation (DEC) received a request from C.T. Male Associates on behalf of Broome County Industrial Development Agency (BCIDA), dated November 20, 2019, for a state acknowledgement letter for a Federal Year 2020 United States Environmental Protection Agency (USEPA) Brownfields grant.

I understand that BCIDA plans to submit a Brownfield Community-wide Assessment Grant application for hazardous substances in the amount of \$300,000. Focus of the funding will be to conduct Phase I and II Environmental Site Assessments on at least five brownfield sites located in Broome County. In addition to site assessments, funding will be allocated for inventory preparation, site selection criteria development, reuse planning (including cleanup planning) and community involvement activities. Please note that the USEPA criteria for an assessment grant specifies that, if selected, BCIDA may only expend up to \$200,000 of the grant on a specific site.

DEC encourages initiatives to redevelop brownfields with the goal of mitigating any environmental and health impacts that they might pose.

Sincerely,



Theodore Bennett
Director
Bureau of Program Management

ec: T. Wesley, USEPA Region 2
A. Devine, USEPA Region 2
S. Edwards, DEC Albany
H. Warner, DEC Region 7
S. Lizlovs, DEC Region 7
C. Koenig, C.T. Male Associates



Department of
Environmental
Conservation

PROJECT NARRATIVE

1. Project Area Description and Plans for Revitalization

a. **Target Area and Brownfields**

i. Background and Description of Target Area

Broome County is located at the heart of New York State's southern border with Pennsylvania, and is bisected by the Interstate 81 and 86 corridors, which moves goods and services to and from the Mid-Atlantic region. With nearly 200,000 residents, Broome County is largely defined by its post-industrial riverfront communities that are situated along the Susquehanna and Chenango Rivers, and its status as the economic engine of the Southern Tier region. As such, Broome County is packed with once-productive brownfield sites that have been dormant for decades. The City of Binghamton (pop. 47,376), located at the confluence of the Chenango and Susquehanna Rivers, remains the economic hub of the County. Nearby population centers including the Village of Johnson City, the Town of Union, and the Village of Endicott are creating aggressive regional and coordinated development strategies to overcome the loss of thousands of office, service, and manufacturing jobs due to the departure of IBM and ancillary businesses, and transform the early semi-conductor economy to a new foundation built on professional services, higher education, healthcare, biomedical and technology research, modern manufacturing, and tourism and recreation. However, in addition to negative macro/socioeconomic undercurrents, this important economic redevelopment work is challenged by physical afflictions such as blight, property abandonment, and pervasive environmental contamination – the essence of brownfields. In addition, regular damaging flooding of the Susquehanna and Chenango Rivers and their tributaries in Broome County compounds the dilapidated condition of brownfield properties and adjacent middle-class neighborhoods, and fuels the negative perception of feasible redevelopment.

Target Area: “Susquehanna Innovation Corridor” – The area targeted for environmental assessment and reuse planning activities includes all of Broome County, New York. Within Broome County, efforts will be focused in an area known as the “Susquehanna Innovation Corridor,” which is comprised of the Village of Endicott, Village of Johnson City, and the Town of Union. These communities, which are all located on the north bank of the Susquehanna River, are experiencing the beginnings of economic re-birth, but are challenged by a high density of former industrial sites, brownfield sites, and neighborhood blight. In addition, several specific sub-areas within the Target Area have already been designated by Broome County as special redevelopment zones with additional local financing and zoning incentives for certain commercial and institutional investments, including the Endicott Innovation District (iDistrict); the Johnson City iDistrict; Endicott-Johnson Industrial Spine Brownfield Opportunity Area (E-J BOA); and two Federal Opportunity Zones (Census Tracts 135 and 139). Brownfield sites within these areas will receive preference and other economic incentives when the Broome County Industrial Development Agency (BCIDA) prioritizes sites and plans for environmental assessment and brownfield reuse during the EPA grant period.

ii. Description of the Priority Brownfield Site(s)

Within the Susquehanna Innovation Corridor or near strategic economic drivers including the Greater Binghamton Airport, the BCIDA has informally identified dozens of vacant, derelict, and underutilized properties that should be considered for environmental assessment assistance. Many of these sites are vacant remnants of their past uses with little information about potential contamination and environmental impacts to or from adjoining properties. Within the first six months of the EPA grant period, the BCIDA will create a comprehensive brownfield inventory of these and other previously unidentified sites within Broome County and the Susquehanna Innovation Corridor. Working with municipal partners and economic and social development stakeholders, the BCIDA will rank these sites for known environmental information and feasibility for redevelopment within one to five years, to maximize potential impacts on the affected communities. For this application, the BCIDA has identified seven (7) Priority Brownfield Sites within Broome County and the Susquehanna Innovation Corridor that warrant

environmental site assessments (Phase Is and IIs) as soon as we are awarded funding. The Priority Brownfield Sites are described below to illustrate the tremendous reuse potential for these key properties that so far have remained out of reach by developers and investors due to fear of liability, complexity, and the sheer cost of proper environmental investigations and reuse planning needed to prepare the sites for development.

Former Endicott Plaza: Village of Endicott / ±21 acres / Private Ownership

Description: This site, which was formerly a tannery and industrial waste dump used primarily by the former Endicott-Johnson Shoe Factory, consists of two vacant shopping plazas and deteriorated parking lots in the center of the Village.

Potential Environmental Issues: Groundwater, soil, and soil vapor contamination from tannery waste and other industrial wastes; contaminated fill/urban fill; hazardous building materials.

Incentives: The site is partially in the Endicott iDistrict and partially within a Federal Opportunity Zone (Census Tract 135), providing several layers of tax incentives and other local programs to attract new business investments focused on research and development, and small business creation.

Reuse Priority: The vacancy of approximately 21 acres contributes to blight in Endicott's urban village downtown. This site is surrounded by an underserved neighborhood of more than 500 homes that lacks a grocery store and other retail options within walking distance. In addition, the proximity of this potentially contaminated site to an underserved neighborhood presents environmental justice concerns, as the impact of this former dump on the nearby population is unknown.

59 Lester Avenue: Village of Johnson City / ±4 acres / Private Ownership

Description: This site is the former Endicott-Johnson Shoe Factory, which was once a symbol of pride and economic success in Broome County. The site contains a single, hulking, multiple floor facility that once housed hundreds of employees, but has sat dormant for over 40 years.

Potential Environmental Issues: Groundwater, soil, and soil vapor contamination from historical industrial and manufacturing uses; contaminated fill/urban fill; hazardous building materials; potential impacts to the nearby Little Choconut Creek.

Incentives: The site is within the E-J Industrial Spine BOA and the Johnson City iDistrict, and it adjoins a Federal Opportunity Zone (Census Tract 139), providing local and State incentives to redevelop the site, and due to its size, potentially having a positive impact on surrounding properties.

Reuse Priority: This site presents a highly desirable location in Johnson City for commercial developers with close proximity to Route 17 (Interstate 86) and adjacent rail service. Due to its historical significance and size, this site is truly a keystone to the redevelopment of downtown Johnson City. However, its reuse has been precluded by environmental contamination concerns, and the lack of a coordinated reuse plan.

19 Avenue B: Village of Johnson City / ±0.6 acres / Public Ownership

Description: This site, which is adjacent to 59 Lester Avenue, consists of a vacant industrial building that was historically occupied by industrial users including the Endicott-Johnson Shoe Company and others.

Potential Environmental Issues: Groundwater, soil, and soil vapor contamination from historical industrial and manufacturing uses related to the Endicott-Johnson Shoe Company, which historically occupied this property and many adjoining properties. Hazardous building materials.

Incentives: The site is located in the E-J Industrial Spine BOA, the Johnson City iDistrict, a Federal Opportunity Zone (Census Tract 139), providing local and State incentives to redevelop the site.

Reuse Priority: This site offers an urban infill redevelopment opportunity in the heart of Johnson City, and could be redeveloped or marketed to be redeveloped in conjunction with the adjoining 59 Lester Avenue property and the nearby 99 Lester Avenue property. Site reuse plans will likely encompass all three sites.

99 Lester Avenue: Village of Johnson City / ±7 acres / Private Ownership

Description: This site is a vacant parcel that was historically occupied by industrial uses including the Endicott-Johnson Shoe Company, auto-related uses, and warehousing.

Potential Environmental Issues: Groundwater, soil, and soil vapor contamination from historical industrial and manufacturing uses; potential impacts to the nearby Little Choconut Creek.

Incentives: The site is located in the E-J Industrial Spine BOA, the Johnson City iDistrict, and adjoins a Federal Opportunity Zone (Census Tract 139), providing local and State incentives to redevelop the site.

Reuse Priority: This site presents a large, corner-lot infill redevelopment opportunity on Lester Avenue. Since this site contains frontage on the Little Choconut Creek and is situated across Lester Avenue from historic CFJ Park, mixed-use or commercial projects with water quality improvement, green infrastructure, or recreation components may be suitable for this site. This site is also adjoins 59 Lester Avenue across railroad tracks and could be redeveloped or marketed to be redeveloped in conjunction with the adjoining 59 Lester Avenue property and 19 Avenue B. Coordinated reuse planning will likely occur across the three proximate sites.

Former IBM Country Club: Town of Union / ±9 acres / Private Ownership

Description: This site is a vacant country club building and grounds dating back to the early 1950s that was previously operated by IBM. This large iconic facility once served middle-class families of Broome County, and it is now a vacant remnant of IBM's presence in the Town of Union and the Village of Endicott. Redevelopment of the site has been complicated by perceived contamination.

Potential Environmental Issues: Groundwater, soil, and soil vapor contamination from historical site uses including fertilizer, pesticide, and other chemical use and storage, and from adjoining site uses including petroleum bulk storage. Hazardous building materials.

Reuse Priority: This site presents a redevelopment or adaptive re-use opportunity in the Town of Union. This site offers rolling hills, river valley views, and ample land for new outdoor recreation, in-fill housing, and commercial special event space.

Former Forno's Continental Motors: Village of Endicott / ±1 acre / Private Ownership

Description: This site is a vacant auto dealership and former service and body shop dating to the early 1950s, and located at a prominent downtown intersection in the center of the Village.

Potential Environmental Issues: Groundwater, soil, and soil vapor contamination from auto-related site features and operations such as petroleum underground storage tanks (USTs); floor drains and other drainage; waste storage and disposal; and underground hydraulic lifts. Hazardous building materials.

Incentives: This site is located within a Federal Opportunity Zone (Census Tract 135) and adjoins the Endicott iDistrict, proving tax incentives for property redevelopment or business investment.

Reuse Priority: This site presents an urban infill opportunity for commercial and retail development with a downtown orientation to serve the adjacent underserved residential neighborhoods, and attract commercial traffic travelling between the Town of Union and the City of Binghamton. Additionally, this site located within walking distance to the former Endicott Plaza.

Airport Development Properties: Town of Maine / ±129 Acres / Public Ownership

Description: These two parcels are large vacant properties that adjoin the Greater Binghamton Airport in north-central Broome County.

Potential Environmental Issues: Groundwater and soil contamination from the use and storage of fire-fighting foam that potentially contained per and polyfluoroalkyl substances at the adjoining Greater Binghamton Airport. Unknown fill material/urban fill sites.

Reuse Priority: These parcels present commercial or light industrial development opportunities to maximize bulk air freight carriers (such as UPS and FED EX), nearby rail lines serving other industrial facilities, and regional highway access.

b. Revitalization of the Target Area

i. Reuse Strategy and Alignment with Revitalization Plans

Since the 1990s and the departure of IBM's massive headquarters in the Village of Endicott, the communities within the Susquehanna Innovation Corridor have been suffering from vacant and dilapidated industrial properties, exposure to several significant chlorinated solvent plumes, abandoned commercial parcels, poorly maintained retail plazas, a crumbling sea of asphalt, rusty overpasses, and boarded up homes. The Priority Brownfield Sites tie the Susquehanna Innovation Corridor communities together and were once places where thousands of middle-class families once worked, shopped, and made memories. The BCIDA's redevelopment

strategy for the Priority Brownfield Sites and other underutilized properties is to promote infill brownfield development related to professional services, higher education, healthcare, biomedical and technology research, modern manufacturing, and tourism and recreation within core urban, underserved communities in the Susquehanna Innovation Corridor. Brownfield redevelopment will create opportunities for small businesses and large institutions such as UHS Wilson Medical Center and Binghamton University to invest in and expand operations locally near their existing footprints, and attract new workers, residents, and visitors to the Susquehanna Innovation Corridor.

Several of the Priority Brownfield Sites also present an opportunity for adaptive reuse of existing buildings and public infrastructure based on the large lot coverage and physical condition of the buildings. A mix of uses with an emphasis on job creation will be encouraged at the urban sites in Endicott and Johnson City that will be based on market conditions, financial feasibility, and local land use regulations. The BCIDA will also work with municipal partners to consider improved riverfront and waterway access points when brownfields are proposed for reuse, or opportunities to restore wetlands, decrease shoreline erosion, mitigate future flood hazards, and create walkable green spaces for residents. In addition, the Airport Development Properties present an opportunity to create jobs and maximize regional supply-chain distribution and light industrial development next to the Greater Binghamton Airport on publicly-owned land once any potential environmental constraints are identified and properly managed.

The strategy described above aligns closely with adopted regional revitalization plans including: the Southern Tier Urban Revitalization Initiative (URI) (through Empire State Development Corporation); Build the Greater Binghamton Innovation Ecosystem (2015); Endicott iDistrict Downtown Revitalization Plan (2018); Johnson City iDistrict/BOA Plan (2018); the E-J Industrial Spine BOA Nomination Study (2009); and the Broome County Comprehensive Plan (2013).

ii. Outcomes and Benefits of the Reuse Strategy

Redevelopment of the Priority Brownfield Sites will build on former brownfield success stories in Broome County, and other pending and latent development pressure that has been building for nearly a decade. The strategy for the Priority Brownfield Sites is to actively plan for and market redevelopment by understanding environmental site conditions, market and real-estate conditions, and community perspective. Due to the relative proximity of these sites to each other and to other existing assets, their size and magnitude in the built environment, and their historical prominence, redevelopment of these brownfield sites will stimulate other nearby development and investment by the private and public sector. Once a certain concept is proved in the marketplace, developers are more willing to invest capital. In addition, since many of the Priority Brownfield Sites are located in economically disadvantaged areas, including two Federal Opportunity Zones, engaging the public and assessing and redeveloping the sites will directly benefit the neighborhoods where residents currently live amid the industrial blight and potential contamination. If awarded the grant, the BCIDA expects to return at least 30 acres of contaminated and abandoned land back to productive use, and provide opportunities for new businesses to incubate within the Target Area, for existing institutions and businesses to expand locally, and for new and existing residents to shape the new economy of the Susquehanna Innovation Corridor.

c. Strategy for Leveraging Resources

i. Resources Needed for Site Reuse

The BCIDA and their municipal partners will obtain additional grant and loan funding from other State and Federal programs to advance additional project redevelopment steps beyond the scope of this grant. The BCIDA will provide property owners and developers with information about the Opportunity Zone tax credits, and will use the data collected from environmental site assessments and reuse planning to help owners take the next steps for clean-up or redevelopment, or to transfer shovel-ready sites to a capable developer once clean-up work is completed. For example, a Phase II ESA can be used by a private property owner to apply to the New York State Brownfield Clean-Up Program (BCP) and leverage State incentives for clean-up during site redevelopment. Potential key funding sources that will be sought for future use in environmental assessment, remediation, and/or revitalization strategy include additional EPA Brownfields Grants; flexible New York State incentives including Restore New York funds (demolition, remediation, site preparation, new construction); Consolidated Funding Application (CFA) grants from a variety of State agencies; the New York State

Environmental Restoration Program (ERP) for certain State-designated brownfields that are publicly owned, and private equity investment, and private and public financing.

ii. Use of Existing Infrastructure

Based on the locations of the Priority Brownfield Sites, and their quality as infill redevelopment projects, existing infrastructure – including public sewer and water, natural gas, electricity and cable/fiber, pedestrian connections, and roadways – will be highly utilized. Several Priority Brownfield Sites present an opportunity for adaptive reuse of existing buildings. The Airport Parcels sites may need more infrastructure investments than the other Priority Brownfield Sites due to their largely undeveloped character. The Village of Endicott and the Village of Johnson City have been investing in their basic water and sewer capacity and regional treatment facilities for the past 15 years to help prepare underutilized sites for new connections. All Priority Brownfield Sites have excellent access to major highways, including Interstates 81 and 86.

2. **Community Need and Community Engagement**

a. **Community Need**

i. The Community's Need for Funding

Due to many vacant, underutilized, and devalued properties in the Susquehanna Innovation Corridor, funding assistance for brownfield assessment and reuse planning is not in the budget of the BCIDA or other local municipalities. Many owners will not develop or sell properties without assistance due to (a) depressed market conditions and (b) perceived contamination that may come with continuing obligations. A Brownfield Assessment Grant will serve the BCIDA and its communities by providing environmental assessment and reuse planning assistance to sites that may be privately or publicly owned, and will assuage uncertainty about environmental conditions, characterize environmental contamination, and assess the market conditions, feasibility, and community support for different development concepts. These activities have the potential to jumpstart the conversation about redevelopment, and meld a partnership between local governments, economic developers, and private developers and property owners. The BCIDA and the municipalities in the Susquehanna Innovation Corridor work together on many aspects of regional policy and public life, and this grant would be a continuation of that collaborative track record with community-based economic development.

ii. Threats to Sensitive Populations

1. Health or Welfare of Sensitive Populations

Broome County's communities are relatively compact due to the mountain and valley topography. As a result of these development patterns, many residential areas are in very close proximity to former industrial properties and other brownfield sites putting sensitive populations at risk. Minority populations are especially disadvantaged in Broome County with lower incomes and higher rates of poverty. Additionally, the Broome County Health Assessment 2016-2018 Update reports that the percentage of premature deaths for non-Hispanic Blacks/African Americans was more than double that for non-Hispanic Whites. The rates of hospitalization from Asthma, which has been linked to environmental factors, for Blacks/African Americans was over twice the rate for non-Hispanic Whites (20.8 vs. 10.2 hospitalizations per 10,000 population). Among children, the disparity was even greater (31.6 per 10,000 for non-Hispanic Blacks/African Americans compared to 13.4 per 10,000 for non-Hispanic White children). Many minority populations are concentrated in areas with identified brownfields where property values are lower, putting this population at risk from exposure to contaminants. This grant will facilitate the assessment, cleanup, and redevelopment of brownfield properties, which will not only identify and remove physical contamination but also provide increased economic opportunities through neighborhood revitalization that will create additional positive health outcomes.

2. Greater Than Normal Incidence of Disease and Adverse Health Conditions

Residents of Broome County disproportionately suffer from greater-than-normal incidence of diseases and conditions that are typically associated with exposure to hazardous substances, pollutants, contaminants, or petroleum typically found within brownfield sites. According to the Broome County Community Health Assessment 2016-2018 Update, cancer is the leading cause of premature death in the County with a rate of

419 premature deaths per 100,000 population. That rate is over 52% greater than the New York State rate of 275 per 100,000. In addition to the higher rates of cancer found in the County, a significant number of children born in Broome County are born with birth defects. According to New York State Department of Health statistics for 2010-2012, many of the specific birth defects of these children far exceed the overall State rate, indicating that environmental factors may be responsible. The grant will address brownfield sites in populated areas, including sites in close proximity to residential areas and water supplies where the threat of exposure to contaminants still exists today.

3. Disproportionately Impacted Populations

Broome County has a relatively significant share of its population living in poverty. According to the U.S. Census Bureau, approximately 17.5% of the population is impoverished compared to an overall State poverty rate of 14.1% and a U.S. rate of 12.3%. A 2017 Census Bureau survey also found that Broome County has a disproportionately high number of children living in poverty. Broome County had a childhood poverty rate of 20.2%, ranking it the third highest among New York's 62 counties. Similarly, median household income in Broome County is below State and national medians, and has not risen as fast as several other regions including Long Island, metro New York City, and even other Upstate metro areas including Rochester, Albany, and Syracuse. The high rates of poverty in the County have often been linked with the decline of industrial activity, including former IBM operations. Many of those former industrial sites have gone from being the economic lifeblood of the County's communities to contaminated and blighted sites, which have led to employment loss, neighborhood decay, declining property values, and negative health impacts. These adverse impacts will be directly improved by this grant, which will help to investigate and eventually clean up these former industrial sites and put them back into productive use, which will revitalize neighborhoods, catalyze economic development, and create jobs for local residents.

b. **Community Engagement**

i. Project Partners and Project Partner Roles

Community Partner	Specific Role in the Project
Broome County IDA	Project and grant management, business attraction and economic analysis
Town of Union Village of Johnson City Village of Endicott	Technical assistance; project coordination; community involvement
Broome County/Environmental Management Council	Technical assistance; project research and data acquisition; brownfields assistance
Local Non-Profit Organizations Community Development Corporations	Underserved community involvement; community needs assessment
Southern Tier Regional Economic Development Corporation (REDC)	Business attraction and economic analysis and strategy
Greater Binghamton Association of Realtors	Property information and market analysis
Property Owners	Private owners will be strategic project partners from the start, and will provide property access, property information, and assist with reuse planning.
Project Developers	Developers will be engaged during reuse planning tasks to gauge interest in certain brownfield sites, as well as assist with feasibility analyses.
Business Owners/Stakeholders	Local business owners and other stakeholders will be engaged throughout the reuse planning tasks to ensure strong, feasible scenarios are developed based on local conditions and headwinds.
General Public	The general public will be engaged throughout the entire process for engagement and educational purposes. Their role will evolve during reuse planning to become community designers as their input is considered in redevelopment scenarios.

Broome County Department of Health	Local health information, environmental data acquisition
NYS DEC	Regulatory guidance; site management; environmental data acquisition.

ii. Incorporating Community Input

Community involvement will occur at certain milestones throughout the grant period, to include the following:
Project Kick-Off – A public Kick-Off meeting will be held in Fall 2020 to introduce the project and the Priority Brownfield Sites. The project team will solicit input on other potential brownfield sites or other areas of concern that may need to be assessed or addressed using this grant.

Public Meetings – Other public meetings will be held that will consist of a traditional presentation and question/answer session. It is anticipated that three (3) additional public meetings will be held related to the ongoing work under this grant.

Redevelopment Roundtables – The project team will host design charrettes and public open houses at appropriate times around Broome County to solicit input on potential redevelopment and to display reuse concepts for selected sites. This approach leads to valuable input and public acceptance of a strategy or concept. Charrettes typically occur early in the design development, and open houses typically occur toward the end of the process. It is anticipated that approximately two (2) design charrettes, and three (3) public open houses will be held in different municipalities in Broome County in conjunction with brownfield reuse planning activities.

Scheduled Update – The project team will present quarterly updates at previously scheduled public meetings to summarize results and update the public on progress. The final scheduled update will present overall findings and next steps and will be held near the end of the grant period.

Email List – Subscribers to a dedicated e-mail list will receive a regular newsletter updating progress. It is anticipated that a digital newsletter will be sent on a quarterly basis, or as needed to disseminate information.

Social Media – At least one social media platform will be used continuously to advertise other outreach events, and link to other sources of information.

3. Task Descriptions, Cost Estimates, and Measuring Progress

a. Description of Tasks/Activities and Outputs

Task I: Program Management

- i. Implementation: The BCIDA will use 9% of the grant award on eligible, direct programmatic costs that are integral to achieving the purpose of the Cooperative Agreement such as expenses for quarterly and annual performance and financial reporting; direct administrative costs incurred to comply with the provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards*; securing site access agreements; and other eligible costs. Programmatic expenses will be incurred as contractual costs for a professional consultant to assist with property inventory tasks, site selection and screening, and project reporting and oversight, as well as in the form of salaries/fringe benefits of BCIDA staff. The BCIDA also offers leveraged in-kind services to successfully complete this task beyond what is allocated in the budget. In addition, a Brownfield Steering Committee will be created by members of the BCIDA and its board, as well as stakeholders from the public, private, and non-profit sectors.
- ii. Anticipated Project Schedule: The majority of these funds will be expended in the first year of the grant period, with smaller amounts being used in subsequent two years to oversee the other contracted environmental assessment services and to prepare grant reports.
- iii. Task/Activity Lead(s): BCIDA with support from qualified consultants
- iv. Output(s): Required grant reporting, site inventory and selection deliverables, creation and maintenance of the Brownfield Steering Committee, meeting attendance.

Task II: Community Involvement

- i. Implementation: Extensive community involvement will be conducted including four (4) public meetings (including one project Kick-Off meeting), two (2) design charrettes and three (3) public open houses completed in conjunction with reuse planning activities, quarterly scheduled updates (including a quarterly e-mail update), stakeholder interviews completed as needed, and maintenance of at least one social media

platform. The BCIDA also offers leveraged in-kind services to successfully complete this task beyond what is allocated in the budget.

- ii. Anticipated Project Schedule: The project Kick-Off meeting will occur in Fall 2020. Other community involvement will occur throughout the grant period, at critical milestones that will be determined by the BCIDA, and will be designed to occur in concert with the environmental assessment and eligible reuse planning tasks in order to coordinate the most amount of information and convey the progress of the project.
- iii. Task/Activity Lead(s): Qualified consultants with leveraged in-kind support from BCIDA.
- iv. Output(s): Event and meeting attendance, presentations and other deliverables used in meetings, email updates in the form of newsletters, at least one social media website, community design sketches and notes from the design charrettes.

Task III: Phase I ESAs

- i. Implementation: Ten (10) Phase I ESAs will be conducted on Priority Brownfield Sites and/or other sites within the Target Area or other parts of Broome County identified through the community outreach/brownfield site inventory process. The Phase I ESAs will be conducted in accordance with EPA's All-Appropriate Inquiries Final Rule and ASTM Standard E1527-13. If the site is privately owned, the qualified environmental professional (QEP) will work with the property owner to obtain site access. The BCIDA also offers leveraged in-kind services to help arrange for site access by the QEP.
- ii. Anticipated Project Schedule: Four (4) Phase I ESAs will be conducted in the first year, three (3) will be conducted in the second year, and three (3) will be conducted in the third year.
- iii. Task/Activity Lead(s): QEP
- iv. Output(s): Ten (10) Phase I ESAs

Task IV: Phase II ESAs

- i. Implementation: Six (6) Phase II ESAs will be conducted on Priority Brownfield Sites and/or other sites within the Target Area in accordance with ASTM Standard E1903-11. The Phase II ESAs will investigate the recognized environmental conditions (RECs) identified in the Phase I ESAs, and therefore the specific scope, means, and methods of the Phase II ESA are currently undefined. Initially, the QEP will provide EPA-compliant, site-specific quality assurance project plans (QAPPs), sampling and analysis plans, and site-specific health and safety plans (HASPs) for each site. All documents will be submitted for EPA review and approval prior to implementation. The Phase II ESAs will be completed at sites determined by the BCIDA and partner municipalities to have the highest likelihood of reuse within three years, including sites with private equity or leveraged public funds and/or local Planning Board/Zoning approvals already awarded or committed towards redevelopment or related infrastructure improvements.
- ii. Anticipated Project Schedule: Two (2) Phase II ESAs will be completed in the first year, three (3) Phase II ESAs will be completed in the second year, and one (1) Phase II ESA will be completed in the third year.
- iii. Task/Activity Lead(s): QEP and/or NYS Professional Engineer or Geologist
- iv. Output(s): Six (6) Phase II ESAs

Task V: Brownfield Reuse Planning

- i. Implementation: Two (2) Brownfield Reuse Plans will be completed. The Brownfield Reuse Plans include eligible planning activities to initiate brownfield revitalization and to prepare sites for redevelopment, particularly within the Susquehanna Innovation Corridor and related to the revitalization objectives of the region. These eligible planning activities include site reuse visioning and feasibility, land use and zoning assessments, market studies, infrastructure evaluation, evaluation of market viability for proposed new industries or businesses, and clean-up planning with cost estimates. These activities will occur at two (2) brownfield sites that have had a Phase II ESA or the equivalent of a Phase II ESA completed within the past three years. It is most likely that the Brownfield Reuse Plans will occur on the larger brownfield sites that contain multiple parcels, or on Priority Brownfield Sites that are close to each other – in effect creating a larger area-wide brownfield reuse plan using eligible planning activities and environmental assessment data as the baseline of those plans. Community Engagement will also occur concurrently with Reuse Planning to solicit public and stakeholder input on redevelopment concepts and feasibility. In fact, some of the eligible

Reuse Planning activities may incorporate elements of Community Engagement such as stakeholder interviews and design charrettes. The BCIDA also offers leveraged in-kind services to successfully complete this task beyond what is allocated in the budget.

- ii. Anticipated Project Schedule: The reuse plans will be completed in year two and year three of the grant.
- iii. Task/Activity Lead(s): Qualified consultants with leveraged in-kind support from the BCIDA.
- iv. Output(s): Two (2) Brownfield Reuse Plans

b. Cost Estimates - (100% Hazardous Substance Funding)

Task	Cost Description
Task I: Program Management	<u>Personnel Costs</u> : 250 hours at an average rate of \$80/hour = <u>\$20,000</u> <u>Contractual Costs</u> : 70 hours at an average rate of \$100/hour = <u>\$7,000</u>
Task II: Community Involvement	<u>Contractual Costs</u> : 300 hours at an average rate of \$100/hour = <u>\$30,000</u>
Task III: Phase I ESAs	<u>Contractual Costs</u> : Ten Phase I ESAs at \$3,200/Phase I = <u>\$32,000</u>
Task IV: Phase II ESAs	<u>Contractual Costs</u> : Six Phase II ESAs at an average of \$30,000/Phase II = <u>\$180,000</u>
Task V: Brownfield Reuse Planning	<u>Contractual Costs</u> : Two Brownfield Reuse Plans at an average of \$15,500/plan = <u>\$31,000</u>

Budget Categories	Project Tasks						Category TOTAL
	I. Program Mgmt.	II. Comm. Involvement	III. Phase I ESAs	IV. Phase II ESAs	V. Reuse Planning		
Personnel	\$14,000						\$14,000
Fringe Benefits	\$6,000						\$6,000
Travel							
Equipment							
Supplies							
Contractual	\$7,000	\$30,000	\$32,000	\$180,000	\$31,000		\$280,000
Other							
Direct Costs	\$27,000	\$30,000	\$32,000	\$180,000	\$31,000		\$300,000
Indirect Costs							
Total Budget	\$27,000	\$30,000	\$32,000	\$180,000	\$31,000		<u>\$300,000</u>

c. Measuring Environmental Results

The BCIDA Project Manager will serve as the day-to-day project lead and report directly to the BCIDA Executive Director. The BCIDA will track the overall project using a master Gantt Schedule and budget spreadsheet. Definitive deadlines for all the outputs will be defined in contractual service agreements, and salary costs incurred by the BCIDA will be tracked using weekly written timesheets. Status updates for the EPA Brownfields Grant will be included on the agenda of each regular monthly Board Meeting during the three-year grant period. Quarterly reporting to the EPA will include updates on overall progress, budget, and output milestones and qualitative descriptions. The BCIDA will input assisted sites and results of ESA and reuse planning findings in the ACRES database at least every six months during the grant period. ESA Reports, Reuse Plans, and public meeting agendas and minutes will be kept at the Binghamton Public Library, the BCIDA main offices, and at each municipal office of partner communities within the targeted Susquehanna Innovation Corridor.

4. Programmatic Capability and Past Performance

a. Programmatic Capability

i. Organizational Structure

The BCIDA will be responsible for the timely and successful expenditure of funds, and completion of all technical, administrative and financial requirements of the project and grant. The BCIDA has a professional and capable staff to manage this grant and others. The structure of the organization is team-based – meaning

members of the project team all may have different areas of expertise that combine to form a significant knowledge base and skill-set to implement project tasks. The BCIDA also has excellent relationships with municipal partners and the private sector, who will undoubtedly be utilized for assistance with the successful completion of the project. All of these parties – in house staff, municipal partners, and private sector – comprise the project team.

ii. Description of Key Staff

All business associated with the project will be managed by Ms. Stacey Duncan. Ms. Duncan is the Executive Director of the BCIDA, and has years of executive economic development experience in Broome County, specifically with property redevelopment and disposition. Other key in-house staff at the BCIDA includes Mr. Brendan O'Bryan, who is a Community Development Specialist at the BCIDA and will be the Technical Project Manager, Ms. Natalie Abbadessa, Business Development Specialist, and Ms. Carrie Hornbeck, Executive Assistant.

iii. Acquiring Additional Resources

The BCIDA has the capacity to engage with consultants, contractors, municipalities, and other experts to successfully complete the project. In many of their larger, grant-funded projects, the BCIDA works closely with consultants to help complete the project within the allotted budget and schedule. The BCIDA has productive relationships with consultants and other professionals in State and Federal agencies and local governments that can be relied upon should the need arise. All procurement will be conducted in accordance with the requirements of the grant.

b. Past Performance and Accomplishments

i. Has Not Received an EPA Brownfields Grant but Has Received Other Federal or Non-Federal Grants

1. Purpose and Accomplishments

- Federal Office of Economic Adjustment; *Amount*: \$206,140; *Purpose*: Feasibility study for the potential sale and reuse of former BAE Systems facility (Village of Johnson City).
Outputs/Outcomes: Brownfield Site Revitalization Plan and Developer RFP. Site redevelopment.
- Federal Aviation Administration; *Amount*: \$95,000; *Purpose*: Continue research at the Greater Binghamton Airport (Town of Maine, Broome County) to measure the feasibility and effectiveness of the geothermal snowmelt system and the terminal cooling system.
Outputs/Outcomes: Engineering feasibility study and improved airport conditions and service.
- NYS Department of Transportation; *Amount*: \$354,588; *Purpose*: Construction of rail spurs and any related appurtenances at National Pipe & Plastics Company (Village of Endicott).
Outputs/Outcomes: Increased freight rail service, industrial property improvement and redevelopment, manufacturing business retention and attraction.

2. Compliance with Grant Requirements

The BCIDA adhered to the workplans, schedules, and terms and conditions under the above listed (and other) assistance agreements. Expected outputs and required reporting were completed in a timely manner. In addition, these grant investments have all led to either additional resources leveraged and/or private sector investment. Overall, the BCIDA has a sterling reputation for administering grant funds and timely acceptable reporting, as well as the skill-set and experience to leverage additional resources and private investment from the grant award, leading to economic development and improvement in Broome County.

THRESHOLD CRITERIA ATTACHMENT

1. Applicant Eligibility

Broome County Industrial Development Agency (BCIDA) – **ELIGIBLE FOR FUNDING**

The BCIDA is a public benefit corporation chartered by the State of New York overseen by a nine-member board appointed by the Broome County Legislature.

Enabling Legislation (Attached): Industrial development agencies (“IDAs”) are formed under Article 18-A of New York State General Municipal Law, as public benefit corporations. IDAs were created to actively promote, encourage, attract and develop job and recreational opportunities and economically-sound commerce and industry in cities, towns, villages and counties throughout New York State (the “State”). IDAs are empowered to provide financial assistance to private entities through tax incentives in order to promote the economic welfare, prosperity and recreational opportunities for residents of a municipality.

2. Community Involvement

The BCIDA intends to conduct extensive community involvement by conducting the tasks listed below. Community involvement will occur during all steps of the project; however, a focus of the effort will occur during Phase II ESAs and Reuse Planning tasks, which is a time when critical data and design concepts are presented, and when public input would be the most useful.

- Public Meetings
 - Typically consists of a traditional presentation and question/answer session. It is anticipated that four (4) public meetings will be held related to the ongoing work under this grant.
- Design Charrettes
 - Typically is held as a workshop format, and is intended for community members and stakeholders to collaborate and participate in the site design process. This process is hands-on and visual and graphicly oriented. Design Charrettes are a method of public engagement that will likely occur in conjunction with eligible brownfield site Reuse Planning activities such as the site reuse assessment and vision, and revitalization master plan. It is anticipated that two (2) design charrettes will be completed in conjunction with Reuse Planning activities.
- Public Open Houses
 - Typically is a flexible drop-in format consisting of presentation boards, graphics, and maps, and interactive input and comment stations where participants can work through the information and provide comment at their own pace. It is anticipated that three (3) public open houses will be completed in conjunction with Reuse Planning activities.
- Scheduled Updates
 - This is a regularly scheduled update that will be presented at a previously scheduled public meeting such as a Town Board meeting or a County Board meeting. It is anticipated that Scheduled Updates will be given on a quarterly basis at previously scheduled public meetings.
- Stakeholder Interviews
 - Consists of focused, closed interviews with key project stakeholders. Stakeholder interviews will be completed in conjunction with Reuse Planning activities as needed to gather information.
- E-mail List
 - Consists of a newsletter or flyer that is sent to an e-mail list at regularly scheduled intervals. The email list will be used to advertise the other community involvement events, and communicate project updates. It is anticipated that a digital newsletter will be sent on a quarterly basis, or as needed to disseminate information.

- **Social Media Engagement**

- Social media platforms will be used continuously to advertise other outreach events, and link to other sources of information.

The communities in Broome County will be effectively involved and engaged by the BCIDA and their project team using the methods listed above. Public events will occur at multiple locations in the communities where the priority brownfield sites are located and where the work is being completed, rather than in one central location.

3. Expenditure of Assessment Grant Funds

The Broome County Industrial Development Agency “Applicant” does not have an active EPA Brownfields Assessment Grant.

ATTACHMENT

Broome County Industrial Development Agency
NYS Article 18-A Enabling Legislation

General Municipal Law

ARTICLE 18-A

INDUSTRIAL DEVELOPMENT

TITLE 1

AGENCIES, ORGANIZATION AND POWERS (Sections 850-888)

Section 850. Short title. This chapter may be cited as the "New York State Industrial Development Agency Act."

§ 852. Policy and purposes of article. It is hereby declared to be the policy of this state to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry and economically sound projects identified and called for to implement a state heritage area management plan as provided in title G of the parks, recreation and historic preservation law through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies which are hereby declared to be governmental agencies and instrumentalities and to grant to such industrial development agencies the rights and powers provided in this article.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial, manufacturing, warehousing, commercial, recreation, horse racing facilities, railroad facilities, automobile racing facilities and research facilities and to grant such industrial development agencies the rights and powers provided by this article with respect to industrial pollution control facilities.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of facilities to provide recreation for the citizens of the state and to attract tourists from other states.

The use of all such rights and powers is a public purpose essential to the public interest, and for which public funds may be expended.

§ 854. Definitions. As used in this act, unless the context otherwise requires:

(1) "Agency"--shall mean an Industrial Development Agency created pursuant to this act.

(2) "Bonds"--shall mean the bonds, notes, interim certificates and other obligations issued by the agency pursuant to this act.

(3) "Municipality"--shall mean any county, city, village, town or Indian reservation in the state.

(4) "Project" - shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other

facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, a horse racing facility, a railroad facility or an automobile racing facility, provided, however, no agency shall use its funds in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located.

(5) "Governing body"--shall mean the board or body in which the general legislative powers of the municipality are vested.

(6) "Mortgage"--shall mean a mortgage or other security device.

(7) "Revenues"--shall mean all rents, revenues, fees, charges and other sources of income derived by the agency from the leasing, sale or other disposition of a project or projects.

(8) "Industrial pollution control facility"--shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which if within any city are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial, recreation and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

(9) "Recreation facility"--shall mean any facility for the use of the general public as spectators or participants in recreation activities, including but not limited to skiing, golfing, swimming, tennis, ice skating or ice hockey facilities, together with all buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of recreation facilities by the general public as participants in recreation activities, but shall not include facilities for automobile or horse racing or other similar activities.

(10) "Horse racing facility"--shall mean any facility for the use of the general public for purpose of conducting pari-mutuel wagering, licensed by the state racing and wagering board, as of January first, nineteen hundred seventy-seven, except non-profit racing associations, including buildings, structures, machinery, equipments, facilities and appurtenances thereto, the construction, reconstruction, acquisition and/or improvement of which shall have been approved by the state racing and wagering board, and which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation

of such racing facility.

(11) "Railroad facility"--shall mean, but shall not be limited to, railroad rights-of-way, beds, bridges, viaducts, tracks, switches and rolling stock and any other attendant structure, equipment, facility or property necessary or appropriate to railroading conducted in conjunction with industrial, commercial, manufacturing, recreational or warehousing operations; provided, however, that (i) no agency shall itself operate a railroad facility for freight or passenger service, but may lease or otherwise make such facility available to an operator, subject to an agreement for the maintenance and operation of such facility for freight or passenger service, provided that passenger service does not constitute the primary purpose of the railroad facility; (ii) prior to undertaking any project involving acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility, an agency shall submit its plans for the proposed project to the commissioner of transportation; the commissioner shall, within sixty days of his receipt of the proposal, submit an analysis of the financial and operational feasibility of the proposed project, along with any recommendations for modification for improving the project's viability, to the agency, the governor, the commissioner of commerce, the temporary president of the senate, the speaker of the assembly and the governing body of the municipality in which the agency is located; and (iii) no agency shall enter into any contract for the acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility until fifteen days after the submission of the analysis and recommendations of the commissioner of transportation, or seventy-five days after submission of the agency's plan to the commissioner, whichever is earlier.

(12) "Educational or cultural facility"--shall mean any facility identified and called for to implement a state designated heritage area management plan as provided in title G of the parks, recreation and historic preservation law that is open to the public at large as participants in educational and cultural activities including but not limited to theaters, museums, exhibitions and festival and interpretive facilities, together with buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of educational or cultural facilities by the general public.

(14) "Financial assistance" - shall mean the proceeds of bonds issued by an agency, straight-leases, or exemptions from taxation claimed by a project occupant as a result of an agency taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of an agency.

(15) "Straight-lease transaction" - shall mean a transaction in which an agency takes title, possession or control (by lease, license or otherwise) to the property or equipment of a project occupant, entitling such property or equipment to be exempt from taxation according to the provisions of section eight hundred seventy-four of this article, and no financial assistance in the form of the proceeds of bonds issued by the agency is provided to the project occupant.

(16) "Affected tax jurisdiction" - shall mean any municipality or

school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of an agency involved in a project.

(17) "Payments in lieu of taxes" - shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or a portion of, real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of agency involvement.

(18) "Highly distressed area" - shall mean (a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:

(i) a poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b) a city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c) an area which was designated an empire zone pursuant to article eighteen-B of this chapter.

(19) "Continuing care retirement community" - shall mean any facility that has been granted a certificate of authority pursuant to article forty-six or forty-six-A of the public health law and is established to provide, pursuant to continuing care retirement contracts approved pursuant to article forty-six of the public health law, or fee-for-service continuing care contracts approved pursuant to article forty-six-A of the public health law, a comprehensive, cohesive living arrangement for the elderly, and certified by the commissioner of health, that (i) has been approved for the issuance of industrial development agency bonds by the continuing care retirement community council pursuant to section forty-six hundred four-a of the public health law except that paragraphs b and g of subdivision two of section forty-six hundred four-a of the public health law shall not apply to a continuing care retirement community granted a certificate of authority pursuant to article forty-six-A of the public health law and (ii) is a not-for-profit corporation as defined in section one hundred two of the not-for-profit corporation law that is (a) eligible for tax-exempt financing under section forty-six hundred four-a of the public health law and this chapter and (b) is exempt from taxation pursuant to section 501(c)(3) of the federal internal revenue code; except that "continuing care retirement community" shall not include a facility granted a certificate of authority upon application of a state or local government applicant.

(20) "Automobile racing facility" shall mean any closed-course motorsports complex and its ancillary grounds that has at least fifty thousand fixed seats for race patrons and hosts at least one NASCAR Sprint Cup series race and at least two other nationally recognized racing events each calendar year.

§ 856. Organization of industrial development agencies. 1. (a) Upon the establishment of an industrial development agency by special act of the legislature, the governing body of the municipality for whose benefit such agency is established shall file within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, in the office of the secretary of state, a certificate setting forth: (1) the date of passage of the special act establishing the agency; (2) the name of the agency; (3) the names of the members and their terms of office, specifying which member is the chairman; and (4) facts establishing the need for the establishment of an agency in such municipality.

(b) Every such agency shall be perpetual in duration, except that if (1) such certificate is not filed with the secretary of state within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, or if (2) at the expiration of ten years subsequent to the effective date of the special act, there shall be outstanding no bonds or other obligations theretofore issued by such agency or by the municipality for or in behalf of the agency, then the corporate existence of such agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(c) On or before March first of each year, the secretary of state shall prepare a list of agencies which failed to file a certificate in accordance with provisions of paragraph (a) of this subdivision within the preceding calendar year and transmit a copy of such list to the state comptroller and the commissioner of the department of economic development. On or before March first of each year the commissioner of the department of economic development shall prepare a list of agencies which have dissolved pursuant to paragraph (b) of this subdivision or have ceased to exist pursuant to section eight hundred eighty-two of this chapter and shall transmit a copy of such list to the state comptroller.

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than seven members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority. Such members may include representatives of local government, school boards, organized labor and business. A member shall continue to hold office until his successor is appointed and has qualified. The governing body of each municipality shall designate the first chairman and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

3. A majority of the members of an agency shall constitute a quorum.

4. Any one or more of the members of an agency may be an official or an employee of the municipality. In the event that an official or an employee of the municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his municipal office or employment, or incompatible therewith or affect his tenure or compensation in any way. The term of office of a member of an agency who is an official or an employee of the

municipality when appointed as a member thereof by special act of the legislature creating the industrial development agency shall terminate at the expiration of the term of his municipal office.

§ 858. **Purposes and powers of the agency.** The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; and to carry out the aforesaid purposes, each agency shall have the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold and dispose of personal property for its corporate purposes;
- (4) To acquire by purchase, grant, lease, gift, pursuant to the provisions of the eminent domain procedure law, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes in compliance with the local zoning and planning regulations and shall take into consideration regional and local comprehensive land use plans and state designated heritage area management plans, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the agency shall determine. In the case of railroad facilities, however, the phrase to use real property or rights or easements therein shall not be interpreted to include operation by the agency of rail service upon or in conjunction with such facilities.
- (5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.
- (6) With the consent of the municipality, to use agents, employees and facilities of the municipality, paying the municipality its agreed proportion of the compensation or costs;
- (7) To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the agency;
- (8) (a) To appoint an attorney, who may be the counsel of the municipality, and to fix the attorney's compensation for services which shall be payable to the attorney, and to retain and employ private consultants for professional and technical assistance and advice;
(b) An attorney acting as bond counsel for a project must file with the agency a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to parties other than the agency the written statement must describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the agency.

(9) To make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private; provided, however, that any extension of an existing contract, lease or other agreement entered into by an agency with respect to a project shall be guided by the provisions of this article;

(10) To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

(11) To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

(12) To borrow money and to issue bonds and to provide for the rights of the holders thereof;

(13) To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the agency may deem desirable;

(14) To designate the depositories of its money either within or without the state;

(15) To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions;

(16) To establish and re-establish its fiscal year; and

(17) To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

§ **858-a. Compensation, procurement and investment.** 1. The compensation of an officer or full-time employee of the agency (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the agency) shall not be contingent on the granting of financial assistance by an agency.

2. The provisions of section one hundred four-b of this chapter shall be applicable to the procurement of goods and services paid for by an agency for its own use and account.

3. The provisions of sections ten and eleven of this chapter shall be applicable to deposits and investments of funds for an agency's own use and account.

§ **858-b. Equal employment opportunities.** 1. Each agency shall ensure

that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York state department of labor community services division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in the federal job training partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such such new employment opportunities.

§ 859. Financial records. 1. (a) Each agency shall maintain books and records in such form as may be prescribed by the state comptroller.

(b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by the state comptroller. Such statement shall be audited within such ninety day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency. For each issue of bonds or notes such schedules shall provide the name of each project financed with proceeds of each issue, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each bond or note was issued, date of issue, interest rate at issuance and if variable the range of interest rates applicable, maturity date, federal tax status of each issue, and an estimate of the number of jobs created and retained by each project. For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.

(c) Within thirty days after completion, a copy of the audited financial statement shall be transmitted to the commissioner of the department of economic development, the state comptroller and the governing body of the municipality for whose benefit the agency was created.

(d) An agency with no bonds or notes issued or outstanding and no projects during the applicable accounting period may apply to the state comptroller for a waiver of the required audited financial statement. Application shall be made on such form as the comptroller may prescribe.

(e) If an agency or authority shall fail to file or substantially complete, as determined by the state comptroller, the financial

statement required by this section, the state comptroller shall provide notice to the agency or authority. The notice shall state the following:

(i) that the failure to file a financial statement as required is a violation of this section, or in the case of an insufficient financial statement, the manner in which the financial statement submitted is deficient;

(ii) that the agency or authority has thirty days to comply with this section or provide an adequate written explanation to the comptroller of the agency's or authority's reasons for the inability to comply; and

(iii) that the agency's or authority's failure to provide either the required financial statement or an adequate explanation will result in the notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's noncompliance with this section. Where such agency or authority has failed to file the required statement, the comptroller shall additionally notify the agency or authority that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(iv) If an agency or authority after thirty days has failed to file the required statement or the explanation in the manner required by subparagraph (i) of this paragraph, or provides an insufficient explanation, the comptroller shall notify the chief executive officer of the municipality for whose benefit the agency or authority was created and the agency of the agency's or authority's noncompliance with this section. Such notice from the state comptroller shall further delineate in what respect the agency or authority has failed to comply with this section. If the agency or authority has failed to file the required statement, the notice shall additionally state that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(v) If, thirty days after notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's or authority's noncompliance, the agency or authority fails to file the required statement, the comptroller shall notify the chief executive officer of the municipality for whose benefit that agency or authority was created and the agency or authority that if such report is not provided within sixty days, that the agency or authority will no longer be authorized to provide exemptions from state taxes.

(vi) If, sixty days after the notification required by subparagraph (v) of this paragraph, the comptroller has not received the required statement, the agency or authority shall not offer financial assistance which provides exemptions from state taxes until such financial statement is filed and the comptroller shall so notify the agency or authority and the chief executive officer of the municipality for whose benefit the agency was created. Provided, however, that nothing contained in this paragraph shall be deemed to modify the terms of any existing agreements.

(f) Within thirty days after completion, a copy of an audited financial statement which contains transactions of or bonds or notes of civic facilities as defined in paragraph (b) of subdivision thirteen of section eight hundred fifty-four of this article, shall be transmitted by the agency to the commissioner of health, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate health committee and the chair of the assembly health committee.

2. On or before September first of each year, the commissioner of the department of economic development shall prepare and submit to the governor, speaker of the assembly, majority leader of the senate, and the state comptroller, a report setting forth a summary of the significant trends in operations and financing by agencies and authorities; departures from acceptable practices by agencies and authorities; a compilation by type of the bonds and notes outstanding; a compilation of all outstanding straight-lease transactions; an estimate of the total number of jobs created and retained by agency or authority projects; and any other information which in the opinion of the commissioner bears upon the discharge of the statutory functions of agencies and authorities.

3. On or before April first, nineteen hundred ninety-six, the commissioner shall submit to the director of the division of the budget, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the chairman of the senate local government committee, the chairman of the senate committee on commerce, economic development and small business, the chairman of the assembly committee on commerce, industry and economic development, the chairman of the assembly local governments committee and the chairman of the assembly real property taxation committee an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department. Such evaluation shall identify the effect of agencies and authorities on: (a) job creation and retention in the state, including the types of jobs created and retained; (b) the value of tax exemptions provided by such agencies and authorities; (c) the value of payments received in lieu of taxes received by municipalities and school districts as a result of projects sponsored by such entities; (d) a summary of the types of projects that received financial assistance; (e) a summary of the types of financial assistance provided by the agencies and authorities; (f) a summary of criteria for evaluation of projects used by agencies and authorities; (g) a summary of tax exemption policies of agencies and authorities; and (h) such other factors as may be relevant to an assessment of the performance of such agencies and authorities in creating and retaining job opportunities for residents of the state. Such evaluation shall also assess the process by which agencies and authorities grant exemptions from state taxes and make recommendations for the most efficient and effective procedures for the use of such exemptions. Such evaluation shall further include any recommendations for changes in laws governing the operations of industrial development agencies and authorities which would enhance the creation and retention of jobs in the state.

§ 859-a. Additional prerequisites to the provisions of financial assistance. Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the agency must comply with the following prerequisites:

1. The agency must adopt a resolution describing the project and the financial assistance that the agency is contemplating with respect to such project. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivision four of section eight hundred seventy-four of this chapter, unless the agency has followed the procedures for deviation from such policy specified in paragraph (b) of such subdivision.

2. The agency must hold a public hearing with respect to the project

and the proposed financial assistance being contemplated by the agency. Said public hearing shall be held in a city, town or village where the project proposes to locate. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

3. The agency must give at least ten days published notice of said public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the agency with respect to the project.

§ 859-b. Special procedure for the provision of financial assistance to continuing care retirement communities.

1. Any applicant for financing of a continuing care retirement community shall present a completed application for a certificate of authority and documentation establishing the continuing care retirement community council's approval of that application, pursuant to article forty-six of the public health law.

2. If requested by the agency, the applicant shall present an analysis dealing with any of the issues identified in paragraph (a) of subdivision four of section eight hundred seventy-four of this article.

3. Applicants shall present the financial feasibility study, including a financial forecast and market study, and the analysis of economic costs and benefits required by article forty-six of the public health law.

4. Any information presented by the applicant pursuant to subdivisions one, two and three of this section shall be made available at the time required for published notice of the public hearing required by section eight hundred fifty-nine-a of this article. The agency shall make such information available during regular office hours in at least two locations, at least one of which shall be in the city, town or village within which the proposed project is located. Such notice shall include a statement indicating the location and times of availability of the information required by this section.

5. The industrial development agency may require the applicant to provide any additional information which it requires in order to meet the purposes of this article.

§ 860. Moneys of the agency. The agency shall have power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

§ 861. Notification of budget. Each agency shall mail or deliver to the chief executive officer and the governing body of the municipality for whose benefit the agency was established and make available for

public inspection and comment its proposed budget for the forthcoming fiscal year, no later than twenty business days before adoption. At such time, the agency shall file its proposed budget with the clerk of the municipality for whose benefit the agency was established. Such proposed budget shall contain detailed estimates in writing of the amount of revenues to be received and expenditures to be made during the forthcoming fiscal year. Following its consideration of the comments received, the agency may revise its budget accordingly and shall file the revised budget with the clerk of the municipality.

§ **862. Restrictions on funds of the agency.** No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

§ **862-a. Additional restrictions on funds of the agency in connection with continuing care retirement communities.** No resolution authorizing the issuance of bonds, notes or other obligations of the agency, or for providing financial assistance in any respect, for any continuing care retirement community project shall be adopted unless and until the project has received a certificate of authorization pursuant to section forty-six hundred four-a of the public health law, and unless the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state.

§ **864. Bonds of the agency.** (1) The agency shall have the power and is hereby authorized from time to time to issue negotiable bonds for any of its corporate purposes without limitation as to amount. The agency shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the agency, the bonds of every issue shall be special obligations of the agency payable solely from revenues derived from the leasing, sale or other disposition of a project, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be, and are hereby made, negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

(2) The bonds shall be authorized by resolution of the agency and shall bear such date or dates, mature at such time or times, bear

interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, either within or without the state, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds may be sold at public or private sale at such price or prices as the agency shall determine.

(3) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

(a) pledging all or any part of the revenues derived from the leasing, sale or other disposition of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the agency to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(f) the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) vesting in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders and limiting or abrogating the right of the bondholders to appoint a trustee or limiting the rights, duties and powers of trustee;

(i) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

§ 866. Notes of the agency. The agency shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates for any purpose or purposes for which bonds may be issued, whenever the agency shall determine that payment thereof can be made in full from any moneys or revenues which the agency expects to receive from any source. The agency may secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The agency shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the agency shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the agency to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall

be as fully negotiable as the bonds of the agency.

§ 868. **Agreements of the municipality and state.** The municipality is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds or notes that neither the municipality nor the state, respectively, will limit or alter the rights, hereby vested in the agency to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes nor in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged.

§ 870. **State and municipality not liable on bonds or notes.** The bonds or notes and other obligations of the authority shall not be a debt of the state or of the municipality, and neither the state nor the municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency.

§ 872. **Bonds and notes as legal investment.** The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds or notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 874. **Tax exemptions.** (1) It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

(2) Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the agency, shall be exempt from taxation, except for transfer and estate taxes.

(3) Payments in lieu of taxes received by the agency shall be remitted to each affected tax jurisdiction within thirty days of receipt.

(4) (a) The agency shall establish a uniform tax exemption policy, with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to section eight hundred fifty-nine-a of this chapter and shall provide guidelines for the

claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, agencies shall in adopting such policy consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

(b) The agency shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this subdivision. The agency shall set forth in writing the reasons for deviation from such policy, and shall further notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

(5) Payments in lieu of taxes which are delinquent under the agreement or which an agency fails to remit pursuant to subdivision three of this section, shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision three of this section) to the affected tax jurisdiction at the time the payment in lieu of taxes is paid. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue to and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

(6) An affected tax jurisdiction which has not received a payment in lieu of taxes due to it under an agreement may commence legal action in any court of competent jurisdiction directly against any person, firm, corporation, organization or agency which is obligated to make payments in lieu of taxes under an agreement and has failed to do so. In such an action, the affected tax jurisdiction shall be entitled to recover the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action. Nothing herein shall be construed as providing an affected tax jurisdiction with the right to sue and recover from an agency which has not received payments in lieu of taxes from a project occupant.

(7) Any refinancing of a project shall be subject to the provisions of section eight hundred fifty-nine-a of this chapter, except where such refinancing was previously approved pursuant to such section.

(8) Agents of an agency and project operators shall annually file a

statement with the state department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators, under the authority granted pursuant to this section. The penalty for failure to file such statement shall be the removal of authority to act as an agent of an agency or a project operator.

(9) Within thirty days of the date that the agency designates a project operator or other person to act as agent of the agency for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the agency, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the agency's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

§ 876. Tax contract by the state. The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the agency pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the agency issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

§ 878. Remedies of bondholders and noteholders. (1) In the event that the agency shall default in the payment of principal or of interest on any issue of the bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes, then outstanding shall, in his or its own name:

(a) by suit, action or special proceeding enforce all rights of the bondholders or noteholders, including the right to require the agency to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues, and to require the agency to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or special proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or special proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

(3) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county in which the project or projects are located.

(4) Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the agency.

(5) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of a project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders or noteholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the agency has covenanted to construct, and with any construction which the agency is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders or noteholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

(6) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

§ 880. Actions against the agency. (1) In an action against the agency founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the agency and to its secretary or to its chief executive officer, and that the agency has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

(2) In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency or an officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal

law shall govern the giving of such notice. No action shall be commenced more than one year after the cause of action therefor shall have accrued.

§ **882. Termination of the agency.** Whenever all of the bonds or notes issued by the agency shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the agency shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the agency shall thereupon vest in and be possessed by the municipality.

§ **883. Conflicts of interest.** All members, officers, and employees of an agency or authority shall be subject to the provisions of article eighteen of this chapter.

§ **884. Public bidding.** The provisions of any law relating to the requirement of public bidding with respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this act.

§ **886. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ **888. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local laws of the municipality, the provisions of this title shall be controlling except in cases of inconsistency with the Indian law.

Application for Federal Assistance SF-424

*** 1. Type of Submission:**

- ☐ Preapplication
☒ Application
☐ Changed/Corrected Application

*** 2. Type of Application:**

- ☒ New
☐ Continuation
☐ Revision

*** If Revision, select appropriate letter(s):**

*** Other (Specify):**

*** 3. Date Received:**

12/03/2019

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

BF

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

*** a. Legal Name:** Broome County Industrial Development Agency

*** b. Employer/Taxpayer Identification Number (EIN/TIN):**

*** c. Organizational DUNS:**

7912258810000

d. Address:

*** Street1:** Five South College Drive

Street2:

*** City:** Binghamton

County/Parish:

Broome

*** State:**

NY: New York

Province:

*** Country:**

USA: UNITED STATES

*** Zip / Postal Code:** 13905-1355

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Ms.

*** First Name:**

Stacey

Middle Name:

*** Last Name:**

Duncan

Suffix:

Title: Executive Director

Organizational Affiliation:

Broome County Industrial Development Agency

*** Telephone Number:** 607-584-9000

Fax Number:

*** Email:** smd@theagency-ny.com

Application for Federal Assistance SF-424

* 9. Type of Applicant 1: Select Applicant Type:

X: Other (specify)

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

Industrial Development Agency

* 10. Name of Federal Agency:

Environmental Protection Agency

11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

* 12. Funding Opportunity Number:

EPA-OLEM-OBLR-19-05

* Title:

FY20 GUIDELINES FOR BROWNFIELD ASSESSMENT GRANTS

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

* 15. Descriptive Title of Applicant's Project:

Broome County IDA: Susquehanna Brownfields Innovation Initiative

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:*** a. Applicant * b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:* a. Start Date: * b. End Date: **18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="300,000.00"/>
* b. Applicant	<input type="text" value="0.00"/>
* c. State	<input type="text" value="0.00"/>
* d. Local	<input type="text" value="0.00"/>
* e. Other	<input type="text" value="0.00"/>
* f. Program Income	<input type="text" value="0.00"/>
* g. TOTAL	<input type="text" value="300,000.00"/>

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .
- ☒ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name:

Middle Name:

* Last Name:

Suffix:

* Title: * Telephone Number: Fax Number: * Email: * Signature of Authorized Representative: * Date Signed: